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HOUSE BILL 1212

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State of Washington

57th Legislature

2001 Regular Session

By Representative Bush

Read first time 01/19/2001. Referred to Committee on Juvenile Justice.

1 AN ACT Relating to sealing juvenile records relating to  
2 misdemeanors, diversions, and gross misdemeanors; and amending RCW  
3 13.50.050.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 13.50.050 and 1999 c 198 s 4 are each amended to read  
6 as follows:

7 (1) This section governs records relating to the commission of  
8 juvenile offenses, including records relating to diversions.

9 (2) The official juvenile court file of any alleged or proven  
10 juvenile offender shall be open to public inspection, unless  
11 sealed pursuant to subsection (12) of this section.

12 (3) All records other than the official juvenile court file are  
13 confidential and may be released only as provided in this section,  
14 RCW 13.50.010, 13.40.215, and 4.24.550.

15 (4) Except as otherwise provided in this section and RCW  
16 13.50.010, records retained or produced by any juvenile justice or  
17 care agency may be released to other participants in the juvenile  
18 justice or care system only when an investigation or case

1 involving the juvenile in question is being pursued by the other  
2 participant or when that other participant is assigned the  
3 responsibility for supervising the juvenile.

4 (5) Except as provided in RCW 4.24.550, information not in an  
5 official juvenile court file concerning a juvenile or a juvenile's  
6 family may be released to the public only when that information  
7 could not reasonably be expected to identify the juvenile or the  
8 juvenile's family.

9 (6) Notwithstanding any other provision of this chapter, the  
10 release, to the juvenile or his or her attorney, of law  
11 enforcement and prosecuting attorneys' records pertaining to  
12 investigation, diversion, and prosecution of juvenile offenses  
13 shall be governed by the rules of discovery and other rules of law  
14 applicable in adult criminal investigations and prosecutions.

15 (7) Upon the decision to arrest or the arrest, law enforcement  
16 and prosecuting attorneys may cooperate with schools in releasing  
17 information to a school pertaining to the investigation,  
18 diversion, and prosecution of a juvenile attending the school.  
19 Upon the decision to arrest or the arrest, incident reports may be  
20 released unless releasing the records would jeopardize the  
21 investigation or prosecution or endanger witnesses. If release of  
22 incident reports would jeopardize the investigation or prosecution  
23 or endanger witnesses, law enforcement and prosecuting attorneys  
24 may release information to the maximum extent possible to assist  
25 schools in protecting other students, staff, and school property.

26 (8) The juvenile court and the prosecutor may set up and  
27 maintain a central record-keeping system which may receive  
28 information on all alleged juvenile offenders against whom a  
29 complaint has been filed pursuant to RCW 13.40.070 whether or not  
30 their cases are currently pending before the court. The central  
31 record-keeping system may be computerized. If a complaint has been  
32 referred to a diversion unit, the diversion unit shall promptly  
33 report to the juvenile court or the prosecuting attorney when the  
34 juvenile has agreed to diversion. An offense shall not be reported  
35 as criminal history in any central record-keeping system without  
36 notification by the diversion unit of the date on which the  
37 offender agreed to diversion.

38 (9) Upon request of the victim of a crime or the victim's

1 immediate family, the identity of an alleged or proven juvenile  
2 offender alleged or found to have committed a crime against the  
3 victim and the identity of the alleged or proven juvenile  
4 offender's parent, guardian, or custodian and the circumstance of  
5 the alleged or proven crime shall be released to the victim of the  
6 crime or the victim's immediate family.

7 (10) Subject to the rules of discovery applicable in adult  
8 criminal prosecutions, the juvenile offense records of an adult  
9 criminal defendant or witness in an adult criminal proceeding  
10 shall be released upon request to prosecution and defense counsel  
11 after a charge has actually been filed. The juvenile offense  
12 records of any adult convicted of a crime and placed under the  
13 supervision of the adult corrections system shall be released upon  
14 request to the adult corrections system.

15 (11) In any case in which an information has been filed  
16 pursuant to RCW 13.40.100 or a complaint has been filed with the  
17 prosecutor and referred for diversion pursuant to RCW 13.40.070,  
18 the person the subject of the information or complaint may file a  
19 motion with the court to have the court vacate its order and  
20 findings, if any, and, subject to subsection (23) of this section,  
21 order the sealing of the official juvenile court file, the social  
22 file, and records of the court and of any other agency in the  
23 case.

24 (12) The court shall grant the motion to seal records made  
25 pursuant to subsection (11) of this section if it finds that:

26 (a) For class B offenses other than sex offenses, since the  
27 last date of release from confinement, including full-time  
28 residential treatment, if any, or entry of disposition, the person  
29 has spent ten consecutive years in the community without  
30 committing any offense or crime that subsequently results in  
31 conviction. For class C offenses other than sex offenses, since the  
32 last date of release from confinement, including full-time  
33 residential treatment, if any, or entry of disposition, the person  
34 has spent five consecutive years in the community without  
35 committing any offense or crime that subsequently results in  
36 conviction. For misdemeanors and diversions, since the last date of  
37 release from confinement, including full-time residential  
38 treatment, if any, or entry of disposition, the person has spent

1 two consecutive years in the community without committing any  
2 offense or crime that subsequently results in conviction and the  
3 person is at least eighteen years old. For gross misdemeanors,  
4 since the last date of release from confinement, including full-  
5 time residential treatment, if any, or entry of disposition, the  
6 person has spent three consecutive years in the community without  
7 committing any offense or crime that subsequently results in  
8 conviction and the person is at least eighteen years old;

9 (b) No proceeding is pending against the moving party seeking  
10 the conviction of a juvenile offense or a criminal offense;

11 (c) No proceeding is pending seeking the formation of a  
12 diversion agreement with that person;

13 (d) The person has not been convicted of a class A or sex  
14 offense; and

15 (e) Full restitution has been paid.

16 (13) The person making a motion pursuant to subsection (11) of  
17 this section shall give reasonable notice of the motion to the  
18 prosecution and to any person or agency whose files are sought to  
19 be sealed.

20 (14) If the court grants the motion to seal made pursuant to  
21 subsection (11) of this section, it shall, subject to subsection  
22 (23) of this section, order sealed the official juvenile court  
23 file, the social file, and other records relating to the case as  
24 are named in the order. Thereafter, the proceedings in the case  
25 shall be treated as if they never occurred, and the subject of the  
26 records may reply accordingly to any inquiry about the events,  
27 records of which are sealed. Any agency shall reply to any inquiry  
28 concerning confidential or sealed records that records are  
29 confidential, and no information can be given about the existence  
30 or nonexistence of records concerning an individual.

31 (15) Inspection of the files and records included in the order  
32 to seal may thereafter be permitted only by order of the court  
33 upon motion made by the person who is the subject of the  
34 information or complaint, except as otherwise provided in RCW  
35 13.50.010(8) and subsection (23) of this section.

36 (16) Any adjudication of a juvenile offense or a crime  
37 subsequent to sealing has the effect of nullifying the sealing

1 order. Any charging of an adult felony subsequent to the sealing  
2 has the effect of nullifying the sealing order for the purposes of  
3 chapter 9.94A RCW.

4 (17) A person eighteen years of age or older whose criminal  
5 history consists of only one referral for diversion may request  
6 that the court order the records in that case destroyed. The  
7 request shall be granted, subject to subsection (23) of this  
8 section, if the court finds that two years have elapsed since  
9 completion of the diversion agreement.

10 (18) If the court grants the motion to destroy records made  
11 pursuant to subsection (17) of this section, it shall, subject to  
12 subsection (23) of this section, order the official juvenile court  
13 file, the social file, and any other records named in the order to  
14 be destroyed.

15 (19) The person making the motion pursuant to subsection (17)  
16 of this section shall give reasonable notice of the motion to the  
17 prosecuting attorney and to any agency whose records are sought to  
18 be destroyed.

19 (20) Any juvenile to whom the provisions of this section may  
20 apply shall be given written notice of his or her rights under  
21 this section at the time of his or her disposition hearing or  
22 during the diversion process.

23 (21) Nothing in this section may be construed to prevent a  
24 crime victim or a member of the victim's family from divulging the  
25 identity of the alleged or proven juvenile offender or his or her  
26 family when necessary in a civil proceeding.

27 (22) Any juvenile justice or care agency may, subject to the  
28 limitations in subsection (23) of this section and (a) and (b) of  
29 this subsection, develop procedures for the routine destruction of  
30 records relating to juvenile offenses and diversions.

31 (a) Records may be routinely destroyed only when the person the  
32 subject of the information or complaint has attained twenty-three  
33 years of age or older, or is eighteen years of age or older and  
34 his or her criminal history consists entirely of one diversion  
35 agreement and two years have passed since completion of the  
36 agreement.

37 (b) The court may not routinely destroy the official juvenile  
38 court file or recordings or transcripts of any proceedings.

1           (23) No identifying information held by the Washington state  
2 patrol in accordance with chapter 43.43 RCW is subject to  
3 destruction or sealing under this section. For the purposes of this  
4 subsection, identifying information includes photographs,  
5 fingerprints, palmprints, soleprints, toeprints and any other data  
6 that identifies a person by physical characteristics, name,  
7 birthdate or address, but does not include information regarding  
8 criminal activity, arrest, charging, diversion, conviction or  
9 other information about a person's treatment by the criminal  
10 justice system or about the person's behavior.

11           (24) Information identifying child victims under age eighteen  
12 who are victims of sexual assaults by juvenile offenders is  
13 confidential and not subject to release to the press or public  
14 without the permission of the child victim or the child's legal  
15 guardian. Identifying information includes the child victim's name,  
16 addresses, location, photographs, and in cases in which the child  
17 victim is a relative of the alleged perpetrator, identification of  
18 the relationship between the child and the alleged  
19 perpetrator. Information identifying a child victim of sexual  
20 assault may be released to law enforcement, prosecutors, judges,  
21 defense attorneys, or private or governmental agencies that  
22 provide services to the child victim of sexual assault.

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